



**Transportation  
Security  
Administration**

**OFFICE OF HUMAN CAPITAL**

**TSA MANAGEMENT DIRECTIVE No. 1100. 63-2  
FURLOUGH (AGENCY PLACEMENT OF  
EMPLOYEES IN NONPAY, NONDUTY STATUS)**

*To enhance mission performance, TSA is committed to promoting a culture founded on its values of Integrity, Innovation and Team Spirit.*

*NOTE: Pursuant to Section 101 of the Aviation and Transportation Security Act (49 U.S.C. 114(n)), this directive establishes TSA policy and supersedes the Federal Aviation Administration (FAA) orders, policies, guidance, and bulletins regarding furlough issued under the FAA Personnel Management System. This directive is TSA policy and must be applied accordingly.*

**REVISION:** This revised directive supersedes TSA MD 1100.63-2, *Furlough (Agency Placement of Employees in Nonpay, Nonduty Status)*, dated May 15, 2009.

**SUMMARY OF CHANGES:** Sections 4, 6 and 7 updated to more specifically reflect government-wide shutdown furloughs; and Section 7, Procedures, updated to include reference to the Office of Professional Responsibility and additional directives, and revised throughout to clarify the use of options to furlough.

- 1. PURPOSE:** This directive provides TSA policy and procedures for the agency's placement of employees on furlough.
- 2. SCOPE:** This directive applies to all TSA organizational elements and all TSA employees.
- 3. AUTHORITIES:** The Aviation and Transportation Security Act, Public Law 107-71 (ATSA)
- 4. DEFINITIONS:**
  - A. Furlough: An involuntary, agency-mandated temporary placement of employees into a nonpay, nonduty status for reasons unrelated to performance or conduct. The most common reasons for a furlough are a lack of work or a lack of funds. Agencies may furlough employees unilaterally without their consent. When possible, the employee must be provided advance notice that they will be placed in furlough status.
  - B. Leave Without Pay (LWOP): A temporary, approved absence from duty in a nonpay status that may be granted at the employee's request.
  - C. Reassignment: A change to a position at the same pay band, same work schedule type (Part-Time or Full-Time) and with no greater pay band opportunity than the pay band opportunity of the previous position.
  - D. TSA Management Officials: The Administrator, Deputy Administrator, Assistant Administrators, Area Directors, Federal Security Directors, Supervisory Air Marshals in Charge, or their designees.

## **5. RESPONSIBILITIES:**

**A. TSA Management Officials are responsible for:**

- (1) determining whether a furlough is necessary, which positions/employees will be impacted, and when/for how long the furlough will be in effect based on knowledge of work, mission needs, and available funding;
- (2) obtaining approval of and issuing appropriate notifications to employees concerning furloughs in accordance with this directive;
- (3) monitoring the status of furloughs to ensure that time limitations are not exceeded; and
- (4) ensuring that their employees are properly advised and counseled regarding benefits and other information related to a furlough.

**B. Office of Human Capital (OHC) is responsible for:**

- (1) advising TSA managers faced with potential furlough situations, to include helping managers explore options that may allow them to avoid the need to apply furlough procedures entirely, or which could reduce the amount of time that employees would need to be in nonpay (furlough) status;
- (2) in conjunction with the Office of Chief Counsel, reviewing any proposed furlough notices that vary from the templates provided before they are issued by TSA Management Officials; and
- (3) ensuring that furlough actions, including benefits-related actions, are properly processed.

**C. Office of Chief Counsel (OCC), in conjunction with OHC, is responsible for reviewing proposed employee furlough notices that vary from the templates provided before they are issued by TSA Management Officials.**

## **6. POLICY:**

- A. TSA Management Officials may exercise discretion in determining whether or not a furlough is necessary, which employees must be furloughed, when, and for how long based on higher level direction, knowledge of work, mission needs, and/or available funding. The decision to authorize use of furlough may be made by an official at or above the level of Assistant Administrator, or his/her designee. TSA is not required to use workforce reduction procedures or any other specific factor(s) (e.g., seniority) to determine which employees will be furloughed.**
- B. Shutdowns due to appropriations lapses or similar situations could limit the discretion available to TSA Management Officials and/or require TSA to modify notifications and/or procedures.**

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- C. When possible, TSA Management Officials should strive to distribute the adverse effects of a furlough as fairly as possible across affected staff if the need for furlough is based on conditions that affect all positions equally; i.e. reduced funding for the entire organization. For example, if the organization faces a temporary 20 percent funding shortfall, all full-time (FT) employees could be furloughed for eight (8) hours per week, and part-time (PT) employees furloughed on a pro-rated basis; i.e., those with an official work schedule of 20 hours per week would be furloughed for four (4) hours per week.
- D. TSA Management Officials may use their judgment to furlough only those employees whose jobs are actually or potentially affected if the conditions prompting the furlough affect certain positions but not others. For example, there may be a temporary lack of work in training but not in human capital, or a reduction in administrative work but not screening work, or positions of a certain type are determined to be exempt/excepted from shutdown under Office of Management and Budget guidance.
- E. Furlough decisions will not be based on an employee's race, color, national origin, religion, age, gender, disability, sexual orientation, parental status, or genetic information.

**7. PROCEDURES:**

- A. Furlough Avoidance and Pre-Planning: If a lack of work or funds results in TSA being unable to allow an employee to work at their assigned duty station, furlough procedures are normally required to address the situation. However, before determining that furlough is required, managers should refer to the guidance in [TSA Handbook to MD 1100.63-2, \*Furlough \(Agency Placement of Employees in Nonpay, Nonduty Status\)\*](#). In some instances, there may be actions TSA Management Officials could decide to take, in accordance with TSA policies, which would avoid the need to apply furlough procedures. For example, excused absence may be appropriate to address a 2-day construction-related closure, or a change in staffing needs could be addressed by ensuring that PT employees work only the tour of duty reflected in their official (documented) work schedule.
- B. Options: In some situations the application of furlough procedures may be appropriate, but additional options might be made available to employees as part of the furlough notification, which could reduce the amount of time an individual employee would need to be in unpaid (furlough) status.
  - (1) Employees should be allowed to volunteer for details if appropriate work is available in other TSA offices and/or locations (i.e., temporary duty assignments or details) and TSA is able to send employees to those locations and/or offices to work. *see* [TSA MD 1100.30-1, \*Temporary Internal Assignments\*](#)
  - (2) Before or during the furlough, employees must be allowed to request the use of an appropriate form(s) of accrued paid leave for all or part of the period covered by furlough procedures, provided the reason for the absence supports the type of leave requested AND the circumstances of the furlough will allow this option.

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**NOTE:** Voluntary use of paid leave may be approved in a *lack of work* situation, but the use of paid leave would not be an option in a *lack of funds* situation since use of paid leave involves an agency expenditure of funds.

- (3) The use of leave must be in accordance with established policies and procedures and appropriate to the furlough circumstances. (*see* [TSA MD 1100.63-1, \*Absence and Leave\*](#)). For example, employees must actually be sick to use sick leave, and they must be performing military duty to use military leave.
  - (4) As part of the furlough notification, employees should be provided with information about the other options, if any, available that they may request, which could reduce the amount of time they will otherwise be in nonpay (furlough) status given the circumstances (*see* TSA Handbook on Furlough).
- C. Type and Length of Furlough: A furlough may be implemented for a continuous (consecutive days) or discontinuous (non-consecutive days) period(s).
- (1) Continuous furloughs affect employees in identified positions for all time they would normally work over a specific, consecutive period of hours, days, weeks or months. For example, if the office will have a lack of work or funds for three (3) weeks, all FT employees could be furloughed for 40 hours per week for three (3) weeks, with PT employees furloughed on a pro-rated basis; i.e., those with an official work schedule of 20 hours per week would be furloughed for 20 hours per week for three (3) weeks.
  - (2) Discontinuous furloughs affect employees in identified positions for specified number of hours, days, weeks or months in a defined period, interspersed with periods of paid work time. Managers may recommend discontinuous furlough options/patterns that make it possible to make scheduling adjustments that will have less impact on overall staffing coverage. For example, to meet a reduction requirement of 120 hours total for each FT employee, the office could place all FT employees on furlough for five (5) hours on each Monday and Thursday for a three (3) month period with PT employees furloughed an equivalent amount on a pro-rated basis.
  - (3) Furloughs will be implemented in increments limited to a maximum of six (6) months each.
- D. Notification Requirements: Advance notice of furlough will normally be issued to affected employees no less than seven (7) calendar days before the proposed furlough start date. Additional notice will be provided whenever possible. Governmentwide shutdown or other unforeseen emergency situations (e.g., an immediate and unexpected loss of agency funding, or an unannounced airline strike), however, may require placing employees in furlough status immediately without advance notice.
- (1) Whenever possible, the notice should identify a projected date or event that is expected to trigger an end to the furlough period.
  - (2) Furlough notices will be issued for a single event expected to last up to a maximum of six (6) months. If the furlough situation extends beyond six (6) months, a new furlough notice

must be issued prior to the end of the initial 6-month period. Regardless of the time period involved, once the initial furlough is terminated and employees are returned to work, any future event that creates the need for another furlough will require issuance of a new notice to affected employees.

- (3) The furlough notice should also explain other options employees will be given, if applicable, during the period of time where a lack of work or funds will occur. For example, the organization may be able to give some or all employees the option to request details if appropriate work is available in other duty locations, and/or could allow employees to request use of appropriate accrued paid leave for all or part of the period where there is a lack of work. TSA Management Officials are encouraged to make options such as these available when possible so that employees may reduce the amount of time they will be in nonpay (furlough) status during the period if they so choose (*ref.* Section 7D).
- (4) Template letters appropriate for use in developing a Notice of Furlough are included in the TSA Handbook on Furlough. Unless other instructions are provided by the Office of Human Capital, TSA Management Officials should use these templates to draft furlough letters. Letters that include variations from the template language should not be issued to employees without prior review/approval of the appropriate program official(s), OHC, and OCC.
- (5) Notices may be issued electronically. For electronic notices, delivery notices and read receipts must be used and acknowledgment replies requested.

**E. Appeal Rights:**

- (1) Non Transportation Security Officer (TSO) employees may appeal the application of furlough procedures in their specific case to the Merit Systems Protection Board (MSPB) if they believe the procedures were incorrectly applied but may not appeal TSA Management Official's decision to use furlough procedures, the reason for doing so, timing of actions, or failure to use other options in place of furlough. Appeals related to furloughs must be filed directly with the MSPB.
- (2) TSOs may appeal a furlough action to TSA's Office of Professional Responsibility Appellate Board (OAB) in accordance with [TSA MD 1100.77-1, OPR Appellate Board](#) and related TSA Handbook. TSOs may appeal the application of furlough procedures in their specific case if they believe the procedures were incorrectly applied. TSA will not review an appeal that is based solely on TSA Management Official's decision to apply furlough procedures, the reason for doing so, timing of actions, or failure to use other options instead of furlough.
- (3) Furlough notices will contain specific appeal filing information.

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**F. Effect on Employee Benefits:**

- (1) Employees who are placed in furlough status may qualify for unemployment compensation and/or related services depending on the eligibility requirements in their local jurisdiction. Servicing Human Resources (HR) Specialists should advise employees that the use of paid leave or other forms of unpaid leave, such as LWOP, which is requested by an employee, may adversely affect their eligibility for unemployment benefits.
- (2) HR Specialists should refer employees who are actually or potentially affected by a furlough to the sources of information referenced in the sample letters included in the TSA Handbook on Furlough.
- (3) Employees who have more specific questions about their individual situation with regard to benefits should contact the TSA service provider for human capital services.

**G.** See the TSA Handbook on Furlough for additional guidance on furloughs.

- 8. APPROVAL AND EFFECTIVE DATE:** This policy is approved and effective the date of signature unless otherwise specified.

**APPROVAL**

*Signed*

November 7, 2011

\_\_\_\_\_  
Sean A. Byrne  
Assistant Administrator for Human Capital

\_\_\_\_\_  
Date

**EFFECTIVE**

\_\_\_\_\_  
Date

**Distribution:** Administrator, Deputy Administrator, Assistant Administrators, Area Directors, Federal Security Directors, Supervisory Air Marshals in Charge, Business Management Offices, Administrative Officers, and HR Specialists

**Point of Contact:** Office of Human Capital Policy, [TSA-OHC-Policy@dhs.gov](mailto:TSA-OHC-Policy@dhs.gov)